

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6935

BILL NUMBER: HB 1398

NOTE PREPARED: Jan 10, 2009

BILL AMENDED:

SUBJECT: Ethanol Incentives.

FIRST AUTHOR: Rep. Grubb

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: This bill reduces the credit sale of E85 biofuel that a retailer may apply against the amount of Gross Retail Tax that the retailer must deposit with the Department of State Revenue from \$0.18 to \$0.10 per gallon. It applies the credit to the sale of E20 and E30 biofuel.

It exempts the state and its political subdivisions from the gasoline tax on E85 biofuel. It adds school corporations and state educational institutions to the list of governmental entities that are eligible to apply to the Department of Agriculture for a grant under the E85 fueling station grant program.

This bill requires the Corn Marketing Council to use revenue received from assessments on the sale of corn to provide grants to assist retailers and governmental entities in purchasing new or converting existing fuel storage tanks to hold E85.

It requires gasoline sold for motor vehicles to have a minimum content of 10% ethanol.

This bill also requires school corporations and state educational institutions to use gasohol and E85 fuel to the extent possible and to make facilities used to dispense biofuels reasonably available to sell biofuels at retail to the public.

Effective Date: Upon passage; July 1, 2009.

Explanation of State Expenditures: *Department of State Revenue:* The Department of State Revenue (DOR) would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate the new sales tax deduction for sales taxes on E20, E30, and E85 fuel sales. The DOR's current level of resources should be sufficient to implement these administrative tasks.

State Gasoline Expenditures for E85 Fuel: This bill could result in an indeterminable decrease in expenditures for the state government. The bill provides that the sales of E 85 to the state and its political subdivisions is exempt from the gasoline tax. The impact would ultimately depend on the extent to which the state and its political subdivisions use E 85 fuel. The gasoline tax is currently \$0.18.

State Educational Institutions: The bill provides that state educational institutions shall whenever possible use gasoline that contains at least 10% ethanol to fuel vehicles owned or operated by the state educational institutions. Any impact on expenditures is indeterminable.

Corn Marketing Council: The bill allows the Corn Marketing Council to provide grants under the E85 Fueling Station Grant Program to fuel retailers and units to assist with the cost of purchasing new or converting existing fuel storage tanks to hold E85. The total of grants provided by the Council may not exceed \$20,000 for any single location. This provision will probably increase the Council's administrative costs, but it is not expected to impact state expenditures because all of the Council's expenses are required by law to be paid from assessments on Indiana corn growers.

Indiana State Department of Agriculture (ISDA) and the Indiana Office of Energy and Defense Development (OED): This bill includes school corporations and state educational institutions in the definition of units eligible to receive grants under the E85 Fueling Station Grant Program. The ISDA and the OED may experience increased administrative costs due to this change, such as revision of grant guidelines and computer programs. There may also be an increased number of applicants due to the expansion of eligibility. The current level of resources for the ISDA and the OED should be sufficient to implement this change.

E85 Fueling Station Grant Program: The ISDA and the OED administer the program, which is funded through the corn checkoff (an assessment of one-half cent per bushel of corn collected by the first purchaser). The grant program has a cap of \$1 M. Grants awarded in 2008 are listed below.

Biofuels Grant Program	County	Award Date	Award Amount
Lassus Brothers Oil, Inc.	Huntington	3/4/2008	\$5,000
Crystal Flash Petroleum, LLC	Hamilton	5/8/2008	\$5,000
Thorntons, Inc.	Johnson	8/18/2008	\$20,000
National Oil & Gas	Allen	8/18/2008	\$18,000
Family Express Corp.	Porter	8/18/2008	\$20,000
Ethy Pump-n-Go	Jay	8/28/2008	\$20,000
Family Express Corp.	LaPorte	9/13/2008	\$20,000
Crystal Flash Petroleum, LLC	Marion	9/13/2008	\$7,850
Thorntons, Inc.	Clark	9/17/2008	\$20,000

Explanation of State Revenues: *Sales Tax Deduction:* The bill allows a retail merchant to deduct from Sales Tax the merchant remits on fuel sales an amount equal to \$0.10 per gallon of E85, E20, or E30 sold by the merchant. The current deduction is \$0.18 per gallon of E 85. This provision should have no impact on sales tax revenue since it appears that the current deduction is already being utilized at its maximum limit.

The total deduction is limited to \$1M in all reporting periods. However, the statute provides that,

notwithstanding the limit, a retail merchant is entitled to the deduction only to the extent that funds are available to reimburse the General Fund from the Corn Market Development Account. According to DOR's notice in the Indiana Registry, the limits for FY 2008 and FY 2009 have been reached. Approximately \$1.47 M was claimed in FY 2008, and the state was reimbursed \$750,000. The remaining balance is to be reimbursed to the General Fund over the next four fiscal years. The maximum of \$500,000 of deductions were claimed by October 2008 for FY 2009.

Impact on Gasoline Tax and Sales Tax Revenue: By requiring that gasoline sold for motor vehicles have a minimum content of 10% ethanol, this bill could have an indeterminable impact on gasoline prices, gasoline sales, and sales tax collections on gasoline. The impact of this mandate will depend primarily on the price of E10 gasoline relative to regular gasoline. If ethanol prices are high, this mandate would increase gasoline prices, decrease gasoline sales, and decrease sales tax and gasoline tax revenue. If ethanol prices are low, this mandate would decrease gas prices, increase gasoline sales, and increase sales tax and gasoline tax revenue.

Penalty Provision: The bill requires that effective June 30, 2009, gasoline sold for motor vehicles must have a minimum content of 10% ethanol. A person who violates this provision commits a Class D infraction. The maximum judgment for a Class D infraction is \$25, which would be deposited in the state General Fund. However, any additional revenue is likely to be small.

The bill also provides that noncompliant gasoline purchased for use in a small engine must be dispensed into a container with a capacity of not more than six gallons. A violation of this provision is a Class C infraction. The maximum judgment for a Class C infraction is \$500, which would be deposited in the state General Fund. However, any additional revenue is likely to be small.

Explanation of Local Expenditures:

Explanation of Local Revenues: Local units could receive less gasoline tax revenue to the extent that there are increased sales of E85 to the state and its political subdivisions that are exempt from the gasoline tax. To the extent that the provisions of this bill impact gas prices and sales, local revenues could also be impacted.

Penalty Provision: If additional court actions are filed and a judgment is entered, local governments would receive revenue from court fees. However, any additional revenue is likely to be small.

Background Information- Sales Tax revenue is deposited in the state General Fund (99.178%), the Public Mass Transportation Fund (0.67%), the Commuter Rail Service Fund (0.123%), and the Industrial Rail Service Fund (0.029%).

Gasoline Tax revenue is distributed to the State Highway Road Construction and Improvement Fund, the State Highway Fund, the Gas Tax Fund (for later distribution through the Motor Vehicle Highway Account formula), the Special Distribution Account (60% of which is distributed to the local units, and 40% is distributed to the State Highway Fund), the Motor Fuel Tax Fund and the Highway Road and Street Fund (55% of which is deposited in the Primary Highway System Special Account and 45% in the Local Road and Street Account).

State Agencies Affected: DOR; ISDA; OED; Corn Marketing Council.

Local Agencies Affected: Trial courts; local law enforcement agencies; School corporations; State educational institutions; Local units and recipients of Gasoline Tax revenues.

Information Sources: Elisha Modisett, ISDA, 317-517-7526; DOR Department Notice 28,29,30.

Fiscal Analyst: Jessica Harmon, 317-232-9854 ; Diana Agidi, 317-232-9867